

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CREIGHTON TAKATA, Individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

RIOT BLOCKCHAIN, INC. F/K/A,
BIOPTIX, INC., JOHN O'ROURKE,
JEFFREY G. MCGONEGAL, BARRY
HONIG, CATHERINE
DEFRANCESCO, MICHAEL
BEEGHLEY, JOHN STETSON, MARK
GROSSMAN, ANDREW KAPLAN,
MIKE DAI, JASON LES, and ERIC SO,

Defendants.

Civil No. 3:18-CV-02293(FLW)(ZNQ)

MOTION DATE: March 16, 2020

**DECLARATION OF D. SCOTT CARLTON IN SUPPORT OF
DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION FOR LEAVE
TO FILE A JOINT SUR-REPLY**

THOMAS A. ZACCARO
thomaszaccaro@paulhastings.com
D. SCOTT CARLTON
scottcarlton@paulhastings.com
PAUL HASTINGS LLP
515 South Flower Street, 25th Floor
Los Angeles, California 90071-2228
Telephone: 1(213) 683-6000
Facsimile: 1(213) 627-0705

CHAD J. PETERMAN
chadpeterman@paulhastings.com
PAUL HASTINGS LLP
200 Park Avenue
New York, NY 10166
Telephone: 1(212) 318-6000
Facsimile: 1(212) 319-4090

Attorneys for Defendants

*RIOT BLOCKCHAIN, INC., JOHN O'ROURKE, MICHAEL BEEGHLEY,
JEFFREY G. MCGONEGAL, ANDREW KAPLAN, JASON LES, AND ERIC SO*

DECLARATION OF D. SCOTT CARLTON

I, Daniel Scott Carlton, declare and state as follows:

1. I am an attorney duly admitted to practice in the State of California and to appear before this Court *pro hac vice*. I am Of Counsel in the firm of Paul Hastings LLP, counsel of record for Defendants Riot Blockchain, Inc., John O'Rourke, Michael Beeghley, Jeffrey G. McGonegal, Andrew Kaplan, Jason Les, and Eric So (collectively, the "Defendants") in the above-captioned matters. I make this declaration in support of Defendants' Reply In Support of Their Motion for Leave to File a Joint Sur-Reply. I have personal knowledge of the facts stated herein and, if called upon to testify under oath, I could and would testify competently thereto.

2. Attached hereto as Exhibit "A" is a true and correct copy of a letter from Kimberly L. Fredrick, an Assistant Regional Director for the United States Securities and Exchange Commission (the "SEC"), sent to Riot Blockchain, Inc. ("Riot" or the "Company"), for care of counsel to the Company, dated January 29, 2020. This letter is referenced in Riot's Form 8-K filed before the SEC on February 3, 2020.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration is executed on the 9th day of March 2020, at Los Angeles, California.



Daniel Scott Carlton

EXHIBIT A

EXHIBIT A



**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Denver Regional Office
1961 Stout Street, Suite 1700
Denver, CO 80294

DIVISION OF ENFORCEMENT

Kimberly L. Frederick
Assistant Regional Director
(303) 844-1034

January 29, 2020

Via UPS and E-Mail: ACeresney@debevoise.com

Riot Blockchain, Inc.
c/o Andrew J. Ceresney
Debevoise & Plimpton LLP
919 Third Avenue
New York, NY 10022

Re: In the Matter of Riot Blockchain, Inc. (D-03750)

Dear Mr. Ceresney:

We have concluded the investigation as to Riot Blockchain, Inc. Based on the information we have as of this date, we do not intend to recommend an enforcement action by the Commission against Riot Blockchain, Inc. We are providing this notice under the guidelines set out in the final paragraph of Securities Act Release No. 5310, which states in part that the notice "must in no way be construed as indicating that the party has been exonerated or that no action may ultimately result from the staff's investigation." (The full text of Release No. 5310 can be found at: <http://www.sec.gov/divisions/enforce/wells-release.pdf>.)

Sincerely,

A handwritten signature in blue ink, appearing to read "KL Frederick", is positioned above the typed name.

Kimberly L. Frederick
Assistant Regional Director
Division of Enforcement